

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5254 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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HAJI MAMAD CHANIA

Versus

MORABI NAGAR PALIKA

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Appearance:

MR VH DESAI for Petitioners

MR ND NANAVATI for Respondent No. 1

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CORAM : MR.JUSTICE J.N.BHATT

Date of decision: 08/04/99

#### ORAL JUDGEMENT

In this petition under Article 226 of the Constitution of India, the petitioner has challenged the order of respondent-Nagarपालिका (Local authority) of reversion dated 24.9.86 with immediate effect to his original post of peon in Sanitation Department.

A resume of short facts may be stated, at this stage.

The petitioner was working as a Peon with the respondent in the Sanitation Department since 1st November, 1980. Subsequently, he came to be promoted as a Clerk on temporary basis on temporary post and on probation for six months from 1.1.86. The said probationary period was also extended for six months from 1.7.86. Thereafter the respondent authority, by passing resolution No.440 on 4th August, 1986, reverted the petitioner from the promoted post of Clerk to the parent post of peon, which is challenged in this petition, alleging that it was erroneous, illegal and bad in law. The main premise on which the impugned order of reversion assailed is that the reason for reversion is baseless and the action of the respondent authority is arbitrary. The impugned order, on its plain perusal, manifestly shows that the petitioner came to be reverted from the promoted post only on the ground that there was no vacant post and the promotion given was temporary in a set up for which the post was expected. The Board of the respondent authority did not continue the said post and reversion was ordered without any stigma or any blame. It is very clear from the impugned order itself that since the post was not available, reversion of the petitioner was necessary. No specific allegation of malafide is also made. The petitioner has continued on the original post in the Sanitation Department of the respondent authority even after the reversion. Otherwise also, promotion is not a matter of right. The petitioner was given promotion temporarily in anticipation of continuance of the post. Therefore, there was no any right to the post which was not continued. Therefore, the challenge to the impugned order is meritless. There is no any arbitrariness or illegality much less malafide.

In the result, the petition is required to be rejected. Accordingly, it is rejected. Rule discharged. No order as to costs.

(vjn)

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